

1 Christopher M. Ledford, Cal. Bar No. 255902  
2 CLedford@perkinscoie.com  
3 PERKINS COIE LLP  
4 1201 Third Avenue, Suite 4900  
5 Seattle, WA 98101-3099  
6 Telephone: 206.359.8000  
7 Facsimile: 206.359.9000

5 Marlena M. Moore, Cal. Bar No. 301544  
MMoore@perkinscoie.com  
6 PERKINS COIE LLP  
7 1888 Century Park East, Suite 1700  
Los Angeles, CA 90067  
Telephone: 310.788.9900  
8 Facsimile: 310.788.3399

9 Attorneys for Plaintiff  
The Boeing Company

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

14 THE BOEING COMPANY,  
15 Plaintiff,  
16 v

Case No. 8:17-cv-00296-AG (KESx)

**STIPULATED PROTECTIVE  
ORDER; AND [PROPOSED]  
ORDER THEREON**

17 DESAI-AIRE, INC., dba ABLE  
18 AEROSPACE ADHESIVES,  
19 ALFAKLEEN CHEMICAL LABS,  
MANUFACTURING, LLC, and DOES  
2-10

20 Defendants,  
21 AND RELATED CROSS-ACTIONS.

1           WHEREAS, Plaintiff The Boeing Company, Defendant Desai-Aire, Inc., dba  
2 Able Aerospace Adhesives, and Defendant Private Brand Manufacturing, LLC  
3 (collectively, “the Parties”) each contemplate that discovery in the above-captioned  
4 action (the “Action”) will involve the exchange of information, and the production  
5 of documents and other materials by the Parties, additional defendants who may  
6 appear in this action, and third-parties, which may contain information in the nature  
7 of personal information, trade secrets, export-controlled information or documents,  
8 or information otherwise of a confidential, regulated, or proprietary nature, as  
9 described more fully below; and

10           WHEREAS, in order to establish procedures that would, among other things,  
11 protect the Parties from public disclosure of such personal information, trade  
12 secrets, export-controlled information or documents, or information otherwise of a  
13 confidential, regulated, or proprietary nature that might result in damage to the  
14 Parties or to a third-party, the Parties agree to limit the disclosure and dissemination  
15 of personal information, trade secrets, export-controlled information or documents,  
16 or information otherwise of a confidential, regulated, or proprietary nature that are  
17 in the possession, custody, or control of one of the Parties or a third-party, while at  
18 the same time allowing the Parties to obtain discovery thereof under the terms and  
19 conditions set forth below;

20           WHEREAS, a protective order will also expedite the flow of discovery  
21 materials, protect the integrity of truly confidential or regulated information,  
22 promote the prompt resolution of disputes over confidentiality, and facilitate the  
23 preservation of material worthy of protection.

24           WHEREAS, the Parties hereto have stipulated to the terms and conditions of  
25 this Agreed Protective Order (the “Protective Order”) through their undersigned  
26 counsel;

27  
28

1                   WHEREAS, this Stipulated Protective Order draws from this Court's  
2 "Standing Protective Order," but modifies certain terms to fit the peculiarities of  
3 this case;

4                   **IT IS HEREBY ORDERED THAT:**

5                   1.        Scope and Application of Protective Order. This Protective Order  
6 shall govern any document, information or other material that is designated as  
7 containing "Confidential Information," "Highly Confidential–Attorney's Eyes Only  
8 Information," or "Export Controlled Information" as defined herein, and is  
9 produced in connection with this litigation by any person or entity (the "producing  
10 Party" or "designating Party"), whether in response to a discovery request,  
11 subpoena or otherwise, to any other person or entity (the "Receiving Party")  
12 regardless of whether the person or entity producing or receiving the "Confidential  
13 Information," "Highly Confidential–Attorney's Eyes Only Information," and/or  
14 "Export Controlled Information" is a Party to this litigation. This Order does not  
15 confer blanket protections on all disclosures or responses to discovery, and the  
16 protection it gives from public disclosure and use extends only to the specific  
17 material entitled to confidential treatment under the applicable legal principles.  
18 This Protective Order does not automatically authorize the filing under seal of  
19 material designated under this Protective Order. Instead, the Parties must comply  
20 with L.R. 79-5.1 if they seek to file anything under seal. This Protective Order  
21 does not govern the use at trial of material designated under this Protective Order.

22                   2.        Definitions.

23                   2.1.     Confidential Information. "Confidential Information" shall  
24 mean and include, without limitation, any information that concerns or relates to  
25 private, confidential and proprietary information, including but not limited to  
26 personally identifiable information; confidential medical or employment  
27 information; trade secrets; non-public commercial, financial, pricing, budgeting  
28 and/or accounting information; non-public information about existing and potential

1 customers; marketing studies, performance and projections; formulas, including  
2 their development and design; non-public business strategies, decisions and/or  
3 negotiations; personnel compensation, evaluations and other employment  
4 information; and confidential proprietary information about affiliates, parents,  
5 subsidiaries and third-parties with whom the Parties to this action have or have had  
6 business relationships. A protective order is warranted, and there is good cause for  
7 such treatment for these categories of information because such information derives  
8 value from not being publicly known, and public disclosure of such information  
9 would lead to serious and unwarranted injury.

10                   2.2 Highly Confidential–Attorneys’ Eyes Only Information.

11 “Highly Confidential–Attorneys’ Eyes Only Information” shall mean extremely  
12 sensitive “Confidential Information” concerning business trade secrets or business  
13 sensitive materials, disclosure of which to another Party or non-party would create a  
14 substantial risk of serious harm that could not be avoided by less restrictive means.

15                   2.3 Export Controlled Information. "Export Controlled  
16 Information" shall mean information that is subject to the requirements of the  
17 Export Administration Regulations ("EAR"), 15 C.F.R. §§ 730, *et seq.*, and/or the  
18 International Traffic in Arms Regulations ("ITAR"), 22 C.F.R. §§ 120, *et seq.* Such  
19 information may be contained in documents that the Parties furnish in this case  
20 related to dual use commodities, technology, or software, or defense articles. A  
21 protective order is warranted, and there is good cause for special treatment of these  
22 categories of information because federal law subjects such information to specific  
23 rules related to designation, use, access, and disclosure, and imposes civil and  
24 criminal penalties for violations.

25                   2.4. Documents. As used herein, the term “documents” includes all  
26 writings, records, files, drawings, graphs, charts, photographs, e-mails, video tapes,  
27 audio tapes, compact discs, electronically stored information, electronic messages,  
28

1 other data compilations from which information can be obtained and other tangible  
2 things subject to production under the Federal Rules of Civil Procedure.

3       3.     Initial Designation.

4           3.1.    Good Faith Claims. Claims of confidentiality or export  
5 controlled status will be made only with respect to documents, other tangible  
6 things, electronically stored information, and information that the asserting Party  
7 has a good faith belief are within the definitions set forth in subparagraphs 2.1, 2.2  
8 and 2.3 of this Protective Order. Objections to such claims made pursuant to  
9 paragraph 5 shall also be made only in good faith.

10          Any party or non-party who designates information or items for protection  
11 under this Order must only designate specific material that qualifies under the  
12 defined standards. To the extent practicable, only those parts of documents, items,  
13 or oral or written communications that require protection shall be designated.  
14 Designations with a higher confidentiality level when a lower level would suffice  
15 are prohibited. Mass, indiscriminate, or routinized designations are prohibited.  
16 Unjustified designations expose the designator to sanctions, including the Court  
17 striking all confidentiality designations made by that designator. Designation under  
18 this Order is allowed only if the designation is necessary to protect material that, if  
19 disclosed to persons not authorized to view it, would cause competitive or other  
20 recognized harm or would violate requirements of the EAR and/or ITAR. Material  
21 may not be designated if it has been made public, or if the designation is otherwise  
22 unnecessary to protect a secrecy interest. If a designator learns that information or  
23 items that it designated for protection do not qualify for protection at all or do not  
24 qualify for the level of protection initially asserted, that designator must promptly  
25 notify all parties that it is withdrawing the mistaken designation.

26           3.2.    Produced Documents. A Party producing documents that it  
27 believes constitute or contain Confidential Information, Highly Confidential–  
28 Attorneys' Eyes Only Information or Export Controlled Information shall produce

1 copies bearing a label that contains or includes language substantially identical to  
2 the following:

3 **CONFIDENTIAL: Subject to Protective Order in Case No. 8:17-cv-  
4 00296 in the District Court for the Central District of California**

5 or

6 **HIGHLY CONFIDENTIAL–ATTORNEYS’ EYES ONLY: Subject  
7 to Protective Order in Case No. 8:17-cv-00296 in the District Court for  
the Central District of California**

8 or

9 **EXPORT CONTROLLED INFORMATION: Subject to Protective  
10 Order in Case No. 8:17-cv-00296 in the District Court for the Central  
11 District of California**

12 or

13 **CONFIDENTIAL AND EXPORT CONTROLLED INFORMATION:  
14 Subject to Protective Order in Case No. 8:17-cv-00296 in the District  
Court for the Central District of California**

15 or

16 **HIGHLY CONFIDENTIAL–ATTORNEYS’ EYES ONLY AND  
17 EXPORT CONTROLLED INFORMATION: Subject to Protective  
18 Order in Case No. 8:17-cv-00296 in the District Court for the Central  
District of California**

19  
20 The label shall be affixed in a manner that does not obliterate or obscure the  
21 contents of the copies. If any person or Party makes copies of documents  
22 designated as containing Confidential, Highly Confidential–Attorneys’ Eyes Only  
23 or Export Controlled Information, the copying person or Party shall mark each such  
24 copy as containing Confidential, Highly Confidential–Attorneys’ Eyes Only or  
25 Export Controlled Information in the same form as the notice on the original  
26 document.

1           A Party producing documents that are stored on electronic, magnetic, optical  
2 or other non-paper media, such as compact discs, DVD's, video tapes and audio  
3 tapes (collectively, "data storage devices") shall designate the data storage device  
4 as containing Confidential, Highly Confidential–Attorneys' Eyes Only or Export  
5 Controlled Information, by affixing a label or stamp to the data storage device in  
6 the manner described above at the time copies of such data storage devices are  
7 produced. If the receiving Party or other persons or entities to whom disclosure is  
8 authorized pursuant to subparagraphs 7.1 and 8.1 make a copy of any data storage  
9 device designated by the producing Party as containing Confidential, Highly  
10 Confidential–Attorneys' Eyes Only or Export Controlled Information, the receiving  
11 Party or other authorized person shall mark each such copy as containing  
12 Confidential, Highly Confidential–Attorneys' Eyes Only or Export Controlled  
13 Information in the same form as the notice on the original data storage device  
14 produced. If the receiving Party or other authorized person prints out or otherwise  
15 makes copies of the documents or information stored on such data storage device,  
16 the receiving Party or other authorized person shall mark each page so copied with  
17 the label or stamp specified in subparagraph 3.2.

18           The Parties have a responsibility to ensure that Export Controlled  
19 Information in their possession, custody or control is not made public. To prevent  
20 public disclosure of Export Controlled Information, the Parties agree to follow the  
21 procedure outlined in this paragraph before any document is "exported," as that  
22 term is described in 15 C.F.R. § 730.5(c) or 22 C.F.R. § 120.17, or otherwise made  
23 public. Counsel hereby certifies that they and their personnel who receive Export  
24 Controlled Information are and will be U.S. Persons as defined by U.S. export  
25 control laws and regulations (hereafter "U.S. Persons"), that they will store all  
26 Export Controlled Information in a manner such that access is restricted only to  
27 U.S. Persons, and that no Export Controlled Information will be physically  
28 transported outside U.S. territory. Before furnishing any document (including any

1 written discovery, and any deposition transcript) to a non-U.S. Person, including by  
2 publicly filing the document with the Court, counsel shall determine whether the  
3 document bears a label indicating that such document contains Export Controlled  
4 Information. Counsel may seek assistance from counsel for Plaintiff regarding  
5 Export Control designations, in which case counsel for Plaintiff shall provide the  
6 requested determination within ten (10) business days, or as soon as reasonably  
7 possible under the circumstances. If a particular document is determined to contain  
8 Export Controlled Information, counsel for the Parties shall take all steps necessary  
9 to ensure that the document or information is used and accessed in accordance with  
10 the EAR, 15 C.F.R. §§ 730, *et seq.*, and/or ITAR, 22 C.F.R. §§ 120, *et seq.*, and  
11 disclosed only to U.S. Persons or as otherwise permitted under U.S. law.

12                   3.3. Interrogatory Answers. If a Party answering an interrogatory  
13 believes that its answer contains Confidential, Highly Confidential–Attorneys’ Eyes  
14 Only or Export Controlled Information, it shall set forth that answer in a separate  
15 document that is produced and designated as Confidential, Highly Confidential–  
16 Attorneys’ Eyes Only or Export Controlled Information in the same manner as a  
17 produced document under subparagraph 3.2. The answers to interrogatories should  
18 make reference to the separately-produced document containing the answer, but  
19 such document should not be attached to the interrogatories.

20

21                   3.4. Deposition Transcripts. No person except those permitted  
22 access to Confidential, Highly Confidential–Attorneys’ Eyes Only and/or Export  
23 Controlled Information by this Order can attend depositions when Confidential,  
24 Highly Confidential–Attorneys’ Eyes Only and/or Export Controlled Information  
25 is, respectively, disclosed, and the parties shall give advance notice to one another  
26 if they expect a deposition to include such material. The use of a document as an  
27 exhibit in deposition shall not affect its designation. If portions of the deposition  
28 testimony are designated as subject to some level of protection under this Order,

1       they should be so designated at the time of the deposition itself, or by letter to the  
2       Court reporter and opposing counsel within 21 days of the date of the deposition.  
3       Transcripts containing designated material shall have a legend on the title page  
4       noting the presence of designated material, and shall contain a list of all pages (and  
5       line numbers if appropriate) that have been designated under this Order and the  
6       level of protection being asserted. Until that 21 day period has elapsed, any  
7       transcript prepared of the deposition shall be considered as Highly Confidential–  
8       Attorneys' Eyes Only and Export Controlled Information. After the expiration of  
9       the 21-day period, the transcript shall be treated only as actually designated.

10           3.5. Multipage Documents. A Party may designate all pages of an  
11       integrated, multipage document, including a deposition transcript and interrogatory  
12       answers, as Confidential, Highly Confidential–Attorneys' Eyes Only or Export  
13       Controlled Information by placing the label specified in subparagraph 3.2 on the  
14       first page of the document. If a Party wishes to designate only certain portions of  
15       an integrated, multipage document as Confidential, Highly Confidential–Attorneys'  
16       Eyes Only or Export Controlled Information, it should designate such portions  
17       immediately below the label on the first page of the document and place the  
18       applicable labels specified in subparagraph 3.2 on each page of the document  
19       containing Confidential, Highly Confidential–Attorneys' Eyes Only or Export  
20       Controlled Information.

21           4. Designations by Another Party.

22           4.1. Notification of Designation. If a Party other than the producing  
23       Party believes that a producing Party has produced a document that contains or  
24       constitutes Confidential, Highly Confidential–Attorneys' Eyes Only or Export  
25       Controlled Information of the non-producing Party, the non-producing Party may  
26       designate the document as Confidential, Highly Confidential–Attorneys' Eyes Only  
27       or Export Controlled Information by so notifying all Parties in writing within 120  
28       days of service of the document.

1                   4.2. Return of Documents. Whenever a Party other than the  
2 producing Party designates a document produced by a producing Party as  
3 Confidential, Highly Confidential–Attorneys' Eyes Only or Export Controlled  
4 Information in accordance with subparagraph 4.1, each Party receiving the  
5 document shall either add the Confidential, Highly Confidential–Attorneys' Eyes  
6 Only or Export Controlled Information designation in accordance with  
7 subparagraph 3.2 or substitute a copy of the document bearing such designation for  
8 each copy of the document produced by the producing Party. Each Party shall  
9 destroy all undesignated copies of the document or return those copies to the  
10 producing Party, at the direction of the producing Party.

11                  4.3. Nondisclosure. No Party shall disclose a produced document to  
12 any person, other than the persons authorized to receive Confidential, Highly  
13 Confidential–Attorneys' Eyes Only or Export Controlled Information under  
14 subparagraphs 7.1 and 8.1, until after the expiration of the 120 day designation  
15 period specified in subparagraph 4.1. If during the 120 day designation period a  
16 Party discloses an undesignated document to a person authorized to receive  
17 Confidential, Highly Confidential–Attorneys' Eyes Only or Export Controlled  
18 Information under subparagraphs 7.1, 7.2 and 8.1, and that document is  
19 subsequently designated as Confidential, Highly Confidential–Attorneys' Eyes  
20 Only or Export Controlled Information in accordance with subparagraph 4.1, the  
21 disclosing Party shall cause all copies of the document to be destroyed or returned  
22 to the producing Party, at the direction of the producing Party. The Party may  
23 thereafter disclose a copy of the document that has been marked as Confidential,  
24 Highly Confidential–Attorneys' Eyes Only or Export Controlled Information by the  
25 designating Party, in accordance with subparagraphs 3.2, 7.1, 7.2 and 8.1.

26                  5. Objections to Designations. All challenges to confidentiality  
27 designations shall proceed under L.R. 37-1 through L.R. 37-4.  
28

1       6. Custody. All Confidential, Highly Confidential–Attorneys' Eyes Only  
2 or Export Controlled Information and any and all copies, extracts and summaries  
3 thereof, including memoranda relating thereto, shall be retained by the receiving  
4 Party in the custody of counsel of record, or by persons to whom disclosure is  
5 authorized under subparagraphs 7.1, 7.2 and 8.1.

6       7. Handling of Confidential Information Prior to Trial.

7       7.1. Authorized Disclosures of Confidential Information.

8 Confidential Information shall be disclosed by the receiving Party only to the  
9 following persons:

- 10       a. Counsel for the Parties in this litigation, including their  
11           associates, clerks, paralegals, and secretarial personnel;
- 12       b. Qualified persons taking testimony in this litigation involving  
13           such Confidential Information, and necessary stenographic,  
14           videotape and clerical personnel;
- 15       c. Actual and potential deposition and trial witnesses in this  
16           Action;
- 17       d. Experts and their staff who are consulted by counsel for a Party  
18           in this litigation;
- 19       e. Parties to this litigation, limited to the named Party and, if that  
20           Party is a corporate entity, a limited number of employees of the  
21           corporate entity and its insurers;
- 22       f. Designated in-house counsel and a limited number of assistants,  
23           administrative or otherwise;
- 24       g. Outside vendors employed by counsel for copying, scanning and  
25           general handling of documents; and
- 26       h. The Court hearing this litigation and the Court's staff, subject to  
27           the Court's processes for filing materials under seal.

28 Such disclosures are authorized only to the extent necessary to investigate,  
29 prosecute, or defend the litigation. With respect to Export Controlled Information,

1 the persons in categories (a)-(h) must be U.S. Persons or otherwise permitted access  
2 to such information under U.S. law.

3                   7.2. Authorized Disclosures of Highly Confidential–Attorneys’  
4 Eyes Only Information. Highly Confidential–Attorneys’ Eyes Only Information  
5 shall be disclosed by the receiving Party only to the following persons:

- 6                   a. The receiving Party’s in-house counsel and outside counsel of record  
7                   in this action, as well as employees of said in-house counsel and  
8                   outside counsel of record to whom it is reasonably necessary to  
9                   disclose the information for this litigation;
- 10                  b. Experts of the Receiving Party (1) to whom disclosure is reasonably  
11                  necessary for this litigation, and (2) for whom the Receiving Party  
12                  confirms in writing to the designating Party the following: “I, counsel  
13                  for [name of Receiving Party] hereby confirm: (a) that I will be  
14                  disclosing information or items designated Highly Confidential –  
15                  Attorney’s Eyes Only Information to an expert retained by my office;  
16                  (b) that the general categories of such information or items to be  
17                  disclosed are [insert description]; (c) that I deem in good faith that  
18                  disclosure of such information or items is reasonably necessary for this  
19                  litigation; (d) that I have and will retain in my possession a document  
20                  or documents containing the expert’s full name, address, resume, and  
21                  name of current employer; (e) that before disclosing such information  
22                  or items to this expert I provided the expert with a general description  
23                  of such information or items and the expert assured me that receipt of  
24                  such information or items would not create any conflicts of interest for  
25                  the expert with any other persons or entities for whom the expert has  
26                  provided services; and (f) the expert has been provided with a copy of  
27                  this Protective Order and has signed the attached Declaration of  
28                  agreement to be bound”;

- c. The court and its personnel;
- d. Court reporters and their staff, professional jury or trial consultants, and professional vendors to whom disclosure is reasonably necessary for this litigation; and
- e. The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

8 Such disclosures are authorized only to the extent necessary to investigate,  
9 prosecute, or defend the litigation. With respect to Export Controlled Information,  
10 the persons in categories (a)-(e) must be U.S. Persons or otherwise permitted access  
11 to such information under U.S. law.

13                   7.3 Acknowledgement of Protective Order. Confidential Information  
14 may not be disclosed to persons under subparagraphs 7.1(c), 7.1(d), and 7.1(e), and  
15 Highly Confidential–Attorneys’ Eyes Only Information may not be disclosed to  
16 persons under subparagraphs 7.2(a), 7.2(b), and 7.2(d), until the receiving Party has  
17 obtained a written acknowledgment from the person receiving Confidential or  
18 Highly Confidential–Attorneys’ Eyes Only Information, in the form attached hereto  
19 as Appendix A, that he or she has received a copy of this Order and has agreed to  
20 be bound by it. A Party who discloses Confidential Information in accordance with  
21 subparagraphs 7.1(c), 7.1(d), and 7.1(e) or Highly Confidential–Attorneys’ Eyes  
22 Only Information in accordance with subparagraphs 7.2(a), 7.2(b), and 7.2(d), shall  
23 retain the written acknowledgment from each person receiving Confidential or  
24 Highly Confidential–Attorneys’ Eyes Only Information, shall maintain a list of all  
25 persons to whom a receiving Party has disclosed Confidential or Highly  
26 Confidential–Attorneys’ Eyes Only Information, and shall furnish the written  
27 acknowledgements and disclosure list to the Court for in camera review upon its  
28 request or order. Furnishing the written acknowledgements and disclosure list to

1 the Court shall not constitute a waiver of the attorney work product or attorney-  
2 client privilege.

3           7.4. Disclosure to Competitors. Before disclosing Confidential  
4 Information or Highly Confidential–Attorneys’ Eyes Only Information to any  
5 authorized person who is receiving or within the previous five years has received  
6 compensation from a competitor of the designating Party, the Party wishing to  
7 make such disclosure shall give at least 14 days’ notice in writing to the designating  
8 Party, stating the name and address of the competitor, and identifying with  
9 particularity the documents to be disclosed. If, within the 14 day period, a motion  
10 is filed objecting to the proposed disclosure, disclosure is not authorized unless and  
11 until the Court orders otherwise. For purposes of this Protective Order,  
12 “competitor” is defined as any person or entity that designs, manufactures,  
13 assembles or supplies products for aerial refueling systems or aircraft fuel systems  
14 (“competitive products”) or components of competitive products.

15           7.5. Unauthorized Disclosures. All persons receiving Confidential  
16 or Highly Confidential–Attorneys’ Eyes Only Information under the terms of this  
17 Order agree to the jurisdiction of this Court for all matters arising from the  
18 improper disclosure or use of such Confidential or Highly Confidential–Attorneys’  
19 Eyes Only Information. If Confidential or Highly Confidential–Attorneys’ Eyes  
20 Only Information is disclosed to any person other than in the manner authorized by  
21 this Protective Order, the Party or person responsible for the disclosure, and any  
22 other Party or person who is subject to this Order and learns of such disclosure,  
23 shall immediately bring such disclosure to the attention of the designating Party.  
24 Without prejudice to other rights and remedies of the designating Party, the  
25 responsible Party or person shall make every effort to obtain the return of the  
26 Confidential or Highly Confidential–Attorneys’ Eyes Only Information and to  
27 prevent further disclosure on its own part or on the part of the person who was the  
28 unauthorized recipient of such information.

1                   7.6. Court Filings. Without written permission from the designator  
2 or a Court order, a party may not file in the public record in this action any  
3 designated material. A party seeking to file under seal any designated material  
4 must comply with L.R. 79-5.1-5.3. Filings may be made under seal only pursuant  
5 to a court order authorizing the sealing of the specific material at issue. The fact  
6 that a document has been designated under this Protective Order is insufficient to  
7 justify filing under seal. Because a party other than the designator will often be  
8 seeking to file designated material, cooperation between the parties in preparing,  
9 and in reducing the number and extent of, requests for under seal filings is essential.  
10 If a receiving party's request to file designated material under seal pursuant to L.R.  
11 79-5.1 is denied by the Court, then the receiving party *may file the material in the*  
12 *public record* unless (1) *the designator* seeks reconsideration within four days of  
13 the denial, or (2) as otherwise instructed by the Court.

14                   8. Handling of Export Controlled Information Prior to Trial

15                   8.1. The Parties have a responsibility to ensure that Export  
16 Controlled Information in their possession, custody or control is used in accordance  
17 with the EAR, 15 C.F.R. §§ 730, *et seq.*, and/or ITAR, 22 C.F.R. §§ 120, *et seq.* To  
18 prevent unauthorized use of Export Controlled Information, the parties agree to  
19 follow the procedure outlined in this paragraph.

20                   i. Export Controlled Information disclosed in this action  
21 will be used only for the purposes of this action.

22                   ii. Counsel or another individuals authorized to receive  
23 Export Controlled Information will not disclose, export, or transfer, in any manner,  
24 Export Controlled Information to any foreign person except as permitted by U.S.  
25 law, and will not transport any such document outside of U.S. territory, without  
26 prior written approval of the Bureau of Industry and Security, the United States  
27 Department of State, or other appropriate U.S. government department or agency,  
28 except as permitted by U.S. law.

iii. Before disclosing any Export Controlled Information to any person, counsel shall require such third person to execute a non-disclosure agreement in the form attached hereto as Appendix A.

iv. The Parties will file an application to file under seal all documents that contain Export Controlled Information.

8.2. Access to Export Controlled Information. The Parties and the Court have a responsibility to ensure that access to Export Controlled Information in their possession, custody or control is restricted to authorized persons in accordance with the EAR, 15 C.F.R. §§ 730, *et seq.*, and/or ITAR, 22 C.F.R. §§ 120, *et seq.* To prevent unauthorized access of Export Controlled Information, the Parties agree to follow the procedure outlined in this paragraph.

i. All documents containing Export Controlled Information shall be placed in a secure file or room with access limited to those persons identified in subparagraphs 7.1 and 7.2 of this Protective Order who are U.S. Persons.

ii. If documents containing Export Controlled Information are scanned and stored in a computer, access to such electronic files shall be limited to those persons identified in subparagraphs 7.1 and 7.2 of this Protective Order who are U.S. Persons.

iii. In the event that counsel or another individual authorized to receive Export Controlled Information anticipates that Export Controlled Information will be disclosed to the Court, including at any hearing or at trial, the Parties agree to confer and, if necessary, to discuss with the Court the proper safeguards to avoid an export violation.

9. Care in Storage. Any person in possession of Confidential, Highly Confidential–Attorneys’ Eyes Only or Export Controlled Information produced by another Party shall exercise reasonable and appropriate care with regard to the storage, custody, copying, and use of the Confidential, Highly Confidential–

1 Attorneys' Eyes Only or Export Controlled Information to ensure that the  
2 confidential and sensitive nature of same is maintained.

3       10. No Implied Waivers. The entry of this Protective Order shall not be  
4 interpreted as a waiver of the right to object, under applicable law, to the furnishing  
5 of information in response to discovery requests or to object to a requested  
6 inspection of documents or facilities. Parties producing Confidential, Highly  
7 Confidential–Attorneys' Eyes Only or Export Controlled Information in this  
8 litigation are doing so only pursuant to the terms of this Order. Neither the  
9 agreement to, or the taking of any action in accordance with the provisions of this  
10 Protective Order, nor the failure to object thereto, shall be interpreted as a waiver of  
11 any claim or position or defense in this action, or any other actions.

12       11. No Admission. Neither this Order nor the designation of any item as  
13 Confidential Information, Highly Confidential–Attorneys' Eyes Only Information  
14 or Export Controlled Information shall be construed as an admission that such  
15 material, or any testimony concerning such material, would be admissible in  
16 evidence in this litigation or in any other proceeding.

17       12. Inadvertent Failure to Designate as Confidential, Highly Confidential–  
18 Attorneys' Eyes Only or Export Controlled. The inadvertent and/or unintentional  
19 failure to designate any information as Confidential, Highly Confidential–  
20 Attorneys' Eyes Only or Export Controlled in accordance with this Protective Order  
21 shall not be deemed a waiver in whole, or in part, of a Party's claim of  
22 confidentiality or status as export controlled. In the event of the disclosure of such  
23 information, the information shall be designated as Confidential, Highly  
24 Confidential–Attorneys' Eyes Only or Export Controlled Information by the Party  
25 as soon as reasonably possible after the Party becomes aware of the disclosure and  
26 such information shall thereafter be treated as Confidential, Highly Confidential–  
27 Attorneys' Eyes Only or Export Controlled Information subject to this Protective  
28 Order.

1           13. Inadvertent Disclosure of Privileged Documents or Information. When  
2 a producing party gives notice that certain inadvertently produced material is  
3 subject to a claim of privilege or other protection, the obligations of the receiving  
4 parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).

5           14. Parties' Own Documents. This Protective Order shall in no way  
6 restrict the Parties in their use of their own documents and information, and nothing  
7 in this Order shall preclude any Party from voluntarily disclosing its own  
8 documents or information, provided, however, that a voluntary public disclosure by  
9 the designating Party shall, unless such disclosure was inadvertent, remove any  
10 confidentiality restrictions thereafter for the Receiving Party.

11           15. Motion to Compel Production of Confidential, Highly Confidential–  
12 Attorneys' Eyes Only, or Export Controlled Information. If any third-party serves a  
13 Party to this action with a subpoena to produce any Confidential, Highly  
14 Confidential–Attorneys' Eyes Only or Export Controlled Information, such Party  
15 shall object to the subpoena as required by this Protective Order and shall  
16 immediately notify the Parties who originally produced and/or designated such  
17 Confidential, Highly Confidential–Attorneys' Eyes Only or Export Controlled  
18 Information that a subpoena has been served in order to allow the Parties who  
19 originally produced and/or designated such Confidential, Highly Confidential–  
20 Attorneys' Eyes Only or Export Controlled Information the opportunity to oppose  
21 any subsequent motion to compel. In addition, if a Party is ordered to produce  
22 Confidential, Highly Confidential–Attorneys' Eyes Only or Export Controlled  
23 Information covered by this Protective Order, notice and, if available, a copy of the  
24 order compelling disclosure shall immediately be given the Parties who originally  
25 produced and/or designated such Confidential, Highly Confidential–Attorneys'  
26 Eyes Only or Export Controlled Information. Nothing in this Agreed  
27 Confidentiality and Protective Order shall be construed as requiring the Party who  
28 is ordered to produce such Confidential, Highly Confidential–Attorneys' Eyes Only

1 or Export Controlled Information to challenge or appeal any order requiring the  
2 production of such Confidential, Highly Confidential–Attorneys’ Eyes Only or  
3 Export Controlled Information or to subject himself/herself to any penalty for non-  
4 compliance with any legal process or seek any relief from the Court.

5       16. No Effect on Other Rights. This Order shall in no way abrogate or  
6 diminish any pre-existing contractual, statutory, or other legal obligations or rights  
7 of any Party with respect to Confidential, Highly Confidential–Attorneys’ Eyes  
8 Only or Export Controlled Information.

9       17. Modification. In the event any Party hereto seeks a Court order to  
10 modify the terms of this Order, said Party shall make such request by written  
11 stipulation or noticed motion to all Parties that must be served and filed in  
12 accordance with local court rules.

13       18. Binding upon Execution. The Parties agree that this Protective Order  
14 shall be binding upon execution by the Parties and shall be effective between them  
15 even in the event that the Court declines to enter the Protective Order.

16       19. Handling upon Conclusion of Litigation. All Parties, counsel, and  
17 persons to whom disclosure was made are ordered to return all Confidential, Highly  
18 Confidential–Attorneys’ Eyes Only or Export Controlled Information to the  
19 designating Party within 90 days of the conclusion of litigation. In addition,  
20 counsel shall certify in writing that all such Confidential, Highly Confidential–  
21 Attorneys’ Eyes Only or Export Controlled Information has been returned. Counsel  
22 for each Party also shall contact each person to whom that Party has provided a  
23 copy of any Confidential, Highly Confidential–Attorneys’ Eyes Only or Export  
24 Controlled Information and request the documents be returned. In lieu of returning  
25 Confidential, Highly Confidential–Attorneys’ Eyes Only or Export Controlled  
26 Information, the person or Party in possession of such Confidential, Highly  
27 Confidential–Attorneys’ Eyes Only or Export Controlled Information may elect to  
28 destroy it. If the person or Party in possession of Confidential, Highly

1 Confidential–Attorneys’ Eyes Only or Export Controlled Information elects to  
2 destroy it rather than return it, that person or Party must notify the designating Party  
3 in writing of the destruction of the Confidential, Highly Confidential–Attorneys’  
4 Eyes Only or Export Controlled Information within 90 days of the conclusion of  
5 litigation.

6

7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

8

9 Dated: \_\_\_\_\_, 2017

10 Dated: \_\_\_\_\_, 2017

11

---

12 Christopher M. Ledford  
13 Cal. Bar No. 255902  
14 CLedford@perkinscoie.com  
15 PERKINS COIE LLP  
16 1201 Third Avenue, Suite 4900  
17 Seattle, WA 98101-3099  
18 Telephone: 206.359.8000  
19 Facsimile: 206.359.9000

20

21 Marlena M. Moore  
22 Cal. Bar No. 301544  
23 MMoore@perkinscoie.com  
24 PERKINS COIE LLP  
25 1888 Century Park East, Suite 1700  
26 Los Angeles, CA 90067  
27 Telephone: 310.788.9900  
28 Facsimile: 310.788.3399

29

30 Attorneys for Plaintiff  
31 The Boeing Company

---

32 David B. Simpson  
33 Cal. Bar No. 106326  
34 dave@wolfsim.com  
35 Adam N. Bouayad  
36 Cal. Bar No. 248087  
37 adam@wolfsim.com  
38 WOLFLICK & SIMPSON  
39 130 North Brand Boulevard  
40 Suite 410  
41 Glendale, CA 91203  
42 Telephone: 818-243-8300  
43 Facsimile: 243-0122

44

45 Attorneys for Defendant  
46 Desai-Aire, Inc., dba Able Aerospace  
47 Adhesives

1 Dated: \_\_\_\_\_, 2017  
2  
3  
4  
5  
6  
7  
8  
9

Stefanie G. Field  
Cal. Bar No. 181646  
Stefanie.Field@greshamsavage.com  
GRESHAM, SAVAGE, NOLAN &  
TILDEN, LLP  
3403 Tenth Street, Suite 700  
Riverside, CA 92501  
Telephone: (951) 684-2171  
Facsimile: (951) 685-2750

10  
11 Attorneys for Defendant Private Brand  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: October 16, 2017

*Karen E. Scott*

HON. KAREN E. SCOTT  
United States Magistrate Judge

1 APPENDIX A  
2  
3  
4  
5  
6  
7  
8  
9  
10

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13

14 THE BOEING COMPANY,  
15 Plaintiff,  
16 v.  
17 DESAI-AIRE, INC., dba ABLE  
18 AEROSPACE ADHESIVES,  
19 ALFAKLEEN CHEMICAL LABS,  
INC., PRIVATE BRAND  
MANUFACTURING, LLC, and DOES  
2-10,

20 Defendants.  
21

Case No. 8:17-cv-00296

22 I, \_\_\_\_\_, declare that:  
23 1. My address is \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 2. My present employer is \_\_\_\_\_.  
28 3. I have received a copy of the Protective Order entered in this litigation.  
-22-

**DECLARATION OF  
REGARDING AGREED  
CONFIDENTIALITY  
PROTECTIVE ORDER**

1       4. I have carefully read and understand the provisions of the Protective Order. I  
2 agree to comply with all of the provisions of the Protective Order and not to reveal  
3 or otherwise communicate to anyone any of the documents, materials or  
4 information that is designated "Confidential Information," "Highly Confidential–  
5 Attorneys' Eyes Only Information" or "Export Controlled Information" and that is  
6 disclosed to me, except in accordance with the terms of said Protective Order. I  
7 further agree not to make use of any documents, information or materials  
8 designated as Confidential Information or Highly Confidential–Attorneys' Eyes  
9 Only Information pursuant to the Protective Order other than for the purpose of this  
10 litigation.

11      5. I will hold in confidence and not disclose to anyone, other than the persons  
12 entitled to receive such information under paragraphs 7.1 or 7.2 of the Protective  
13 Order entered in this litigation, all documents, information and other materials  
14 designated as Confidential or Highly Confidential–Attorneys' Eyes Only  
15 Information (including summaries, notes, abstracts, indices or copies of such  
16 Confidential or Highly Confidential–Attorneys' Eyes Only Information) that is  
17 disclosed to me.

18      6. If the Discovery Material I am to receive includes material designated  
19 "Export Controlled Information," I confirm I am a U.S. person, as that term is set  
20 forth in 22 C.F.R. § 120.15, and that I will not knowingly disclose, export, or  
21 transfer, in any manner, such Export Controlled Information to any non-U.S.  
22 Person, and will not transport or cause to be transported any such Export Controlled  
23 Information outside the territory of the United States, without prior written approval  
24 of the Bureau of Industry and Security, United States Department of State, or other  
25 appropriate U.S. government department or agency.

26      7. I also agree to destroy or return to counsel of record not later than ninety (90)  
27 days after the termination of this litigation all Confidential, Highly Confidential–  
28 Attorneys' Eyes Only and/or Export Controlled Information and summaries, notes,

1 abstracts, indices or copies of such Confidential or Highly Confidential–Attorneys’  
2 Eyes Only Information, which come into my possession, and documents or things  
3 which I have prepared relating thereto.

4 8. I hereby expressly submit to the jurisdiction of the United States District  
5 Court for the Central District of California for the purpose of enforcing the  
6 Protective Order, including any contempt of court proceeding.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Dated \_\_\_\_\_, 20\_\_\_\_

10 \_\_\_\_\_  
11 (signature)

13 Printed Name  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_